

REMARKS

Claims 17, 18, 21-23, 28-31 and 34-52 are pending in the above-identified application. Claim 20 has been incorporated into claim 18. Support for the definition of R¹⁹ is found, for example, at page 112, line 24; page 112, line 40; and page 113, line 15 in the present specification which each provide examples of halogen, hydroxyl and alkoxy substituents. It is requested that the incorporation of claim 20 into claim 18 be entered of record and considered by the Examiner under 37 CFR 1.116(b) in view of the fact that this change responds to a requirement of form so as to overcome the rejection under 35 USC 112 addressed in detail below. Also, it is noted that this change reduces the number of issues, does not introduce any new claims, and at least places the claims into better form for consideration on appeal, should an appeal be necessary.

Removal of Basis for Rejection under 35 USC 112

Claims 18 and 49 have been rejected under 35 USC 112, first paragraph, because of the phrase "...radicals which can be removed by hydrolysis...". This phrase has been removed from claim 18 with the incorporation of claim 20 into claim 18. Thus, it is requested that this rejection be withdrawn. It is further noted that this rejection no longer applies to claim 49 which depends from claim 18.

In addition, it is noted that the objection to claim 20 has also been overcome with the incorporation of claim 20 into claim 18 and the cancellation thereof.

Priority Claim Perfection Issue

The Office Action of January 29, 2010 states that a "'certified copy of the original application' is not of record..." and requests Applicant to submit it into the record. However, the present application is the corresponding US national application from PCT/EP98/00069. In this regard, enclosed is a copy of the NOTIFICATION CONCERNING SUBMISSION OF PRIORITY DOCUMENTS issued by the INTERNATIONAL BUREAU on March 24, 1998. This document confirms that the priority document of the present application has been filed as required according to the PCT.

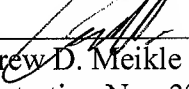
Furthermore, please find attached a copy of PCT Rule 17, wherein in Rule 17.2 (a) it is explicitly stated that the International Bureau shall, at the specific request of the designated Office, promptly but not prior to the international publication of the international application, furnish a copy of the priority document to that Office. No such Office shall ask the applicant himself to furnish it with a copy." (emphasis added). Thus, Applicant has indeed complied with all applicable rules regarding making the priority document of record. In any case, so as to expedite the prosecution, Application is proceeding to request a certified copy from the German Patent Office, though this document is not yet available for submission. It is still requested that the Examiner acknowledge Applicant's proper claim to priority based on the German priority document.

If any questions arise in the above matters, please contact Applicant's representative, Andrew D. Meikle (Reg. No. 32,868), in the Washington Metropolitan Area at the phone number listed below.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: April 29, 2010

Respectfully submitted,

By 

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Enclosures: Form PCT/IB/304
Regulations under the PCT, Rule 17, The Priority Document